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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,526	09/23/2004	Felicia Lindau	04-0047	5525
30550 7590 02/08/2008 BILL & MARY LOU INC. 101 LOMBARD STREET #510 W SAN FRANCISCO, CA 94111			EXAMINER ABEBE, DANIEL DEMELASH	
			ART UNIT 2626	PAPER NUMBER
			MAIL DATE 02/08/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/711,526		LINDAU ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Daniel D. Abebe		2626	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-16, 18-19 is/are rejected.
- 7) ☒ Claim(s) 5 and 17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____                                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____                                                           | 6) <input type="checkbox"/> Other: ____                           |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-16 and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. (2005/0190,199) in view of Chen (7,215,782).

As to claim 1, Brown teaches a system for providing an audience with a visual presentation of sound comprising:

A 'live music signal reception means including an analog to digital converter with gain, where a digital signal comprising multiple musical notes is generated;

A processor for performing transformation of the digital signal to determine the notes, including time shifting of the identified musical notes; and

A visual representation means with a digital to analog converter and volume/gain controller for presenting the notes visually to the audience in synch with the sound (Par.0025, 0058-0051; Par.0119).

More particularly Brown teaches

An analog-to-digital converter processes an analog sound wave to provide a digital sound wave. Component frequencies of the digital sound waves are identified, filtered and translated to their corresponding musical note and volume. As the original digital sound wave is sent through a digital-to-analog converter and output to an audio

device, the identified musical notes are synchronously output to a display device. User-specified parameters, adjustable at any time before, during or after the music-playing process, control frequency filtering, the graphic display of the identified musical notes and the graphical background on which the musical notes are displayed (abstract).

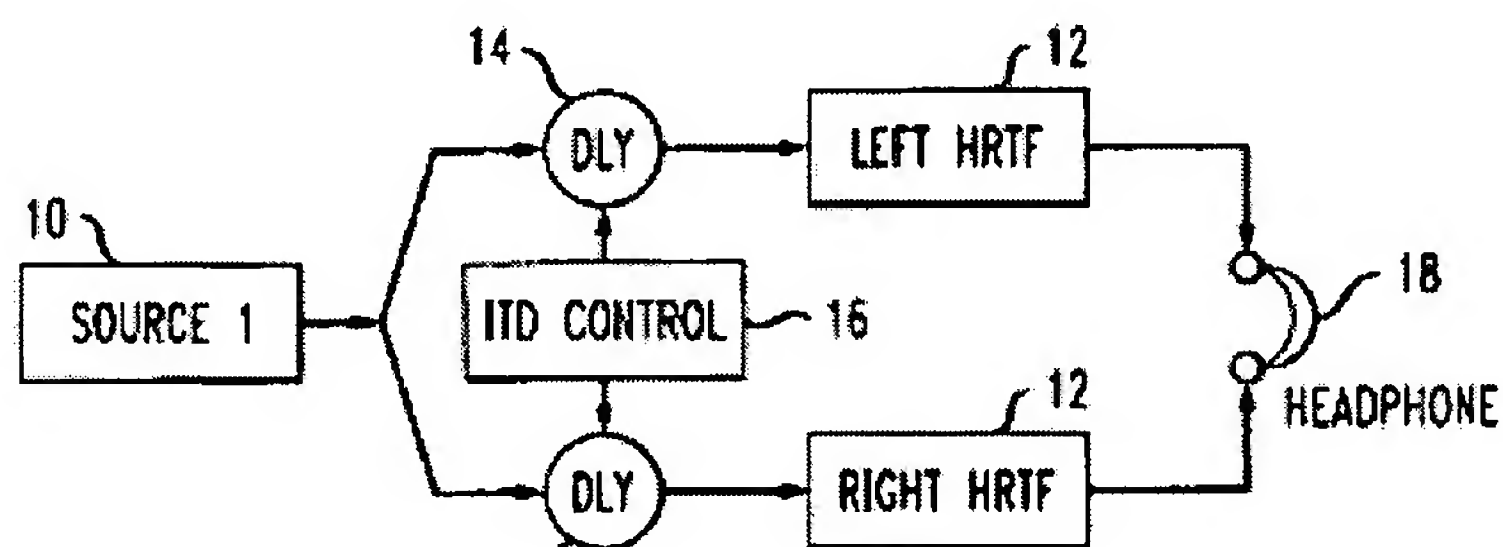
It is noted that Brown doesn't explicitly teach where multiple channels are generated. Chen however teaches a computer based system for providing virtual acoustic sound, comprising;

Receiving an acoustic signal;

processing the acoustic source signal to generate multiple channel acoustic signal including attenuating and scaling the signal; and

Providing to an output for audience presentation (Col.5, lines 5-60).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine the two teaching for the purpose of improving the presentation.



As to claims 2-3, Brown teaches where If the music source is a recording of a sound wave, the original recorded sound wave is synchronously output to an audio device as the musical notes are graphically displayed on a display device. (Par.0023).

As to claim 4, Brown teaches detecting the musical beat (Par 0087).

As to claims 6-7, Brown teaches where the processor is application specific circuit comprising instructions (Fig.1).

Claims 8-16 and 18-19 are analogous to the claims above and are rejected by Brown in view of Chen for the foregoing reasons.

#### **Withdrawal of rejection**

After further consideration of the claims in view of the prior arts the rejection of claims 5 and 17 has been withdrawn.

#### ***Allowable Subject Matter***

Claims 5 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The claims are allowable, because Brown doesn't teach the transformation model as well the time shifting as recited in the claims.

#### ***Response to Arguments***

Applicant's arguments filed 11/20/2007 have been fully considered but they are not persuasive.

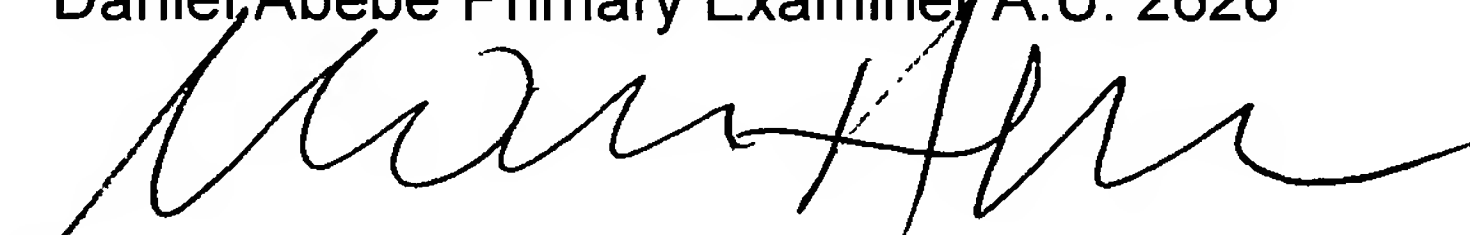
**Applicant argues that the prior arts used (Brown and Chen) for rejecting the claims were improper. The examiner disagree and submits that the arts qualify as prior art. As to the Brown's art, 2005/0190,199 which is a non provisional application, the earlier effective US national application filing date was established by its provisional application 60/532,413 which has an earlier date than the filing date of the present application. Therefore since the subject**

**matter of the Brown art was disclosed in its provisional application having an earlier filing date it qualifies as prior art against the claims of the present invention. Regarding the Chen prior art, it is a continuation application of the parent application that discloses similar subject matter which was filed prior to the filing date of the present application.**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel D. Abebe whose telephone number is 571-272-7615. The examiner can normally be reached on monday-friday.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Daniel Abebe Primary Examiner A.U. 2626

A handwritten signature in black ink, appearing to read 'Daniel Abebe', written over the printed name.

February 3, 2008